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IN THE HIGH COURT OF JUDICATURE AT BOBBY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 6135 OF 2006

Daji Laxman Patkar) ... Petitioner

Vs.

Dy. Director of Education
Kolhapur Divn. & Ors. .... Respondents.

Mr. Suresh S. Pakale, for the petitioner

Mr. P.P. Kakade, AGP for respondent nos.1, 2,5 & 8.

CORAM: F.I. REBELLO,
AND
R. V. MORE, JJ.

DATE : JANUARY 31, 2007.

P.C.:

. Rule. Heard forthwith. Sufficient opportunity was given to the respondents to file the reply. The learned AGP points out that in spite of having sent 2 letters and one telegram, respondents have not approached him to give instructions in the matter. In the light of that, we proceed on the averments and documents on record.

2. Case of the petitioner is that he is

working as a drawing teacher with the.respondent no.3 school run by the Walwa Taluka Education Society, Islampur, taluka Walwa, district Sangli. It is his case that he acquired the Art Master qualification on 1st July 1977 and thus, became eligible for the pay scale of art master w.e.f. 10th July, 1977, in view of the Government Resolution dated 29th August 1978 and 2nd August 1978. The petitioner earlier had acquired qualification of DTC (Drawing Teachers Certificate) in the year 1971 and had become eligible to be appointed as a drawing teacher. The petitioner was appointed as a drawing teacher w.e.f. 2nd August 1972 vide order of appointment dated 2nd August 1972. On acquiring the qualification, petitioner had represented that he be given the pay scale of Art Master. The respondent Zilla Parishad by communication dated 2nd May 2002 addressed to the Head Master of the School of respondent no.3, intimated that considering the representation made by the petitioner he was eligible for the pay scale and for that purpose to pass proper resolution and that should be forwarded to the Department before 20-5-2002.

. The Management accordingly passed the Resolution and forwarded the same with necessary documents, to respondent no.5 for approval. On the document an endorsement was put, allowing the petitioner's claim from 1-7-1977. In spite of that, petitioner has not been paid and consequently the present petition.

3. We may also mention that by communication of 15th March 2005 by the Dy. Director, Division Kolhapur addressed to the Accounts Officer / Secondary (Education) Sindhudurg it was pointed out that the school by resolution dated 9th July 1985 had granted pay-scale of Art Master of Rs.365-760 and the same has been approved by the Relevant Education Officer. The Accounts Officer was informed that the petitioner had been sanctioned pay scale and no change can be made to that and to report the action taken.

. As nothing has been done, present petition.

4. A perusal of Government Resolution dated 29th April 1978 would show that the qualification required was G.D. Art plus Art Master's Diploma. By the Corrigendum dated 27th October, 1978 it was

substituted by Art Master Certificate (A.M.) or Art Master's Diploma (A.M.Dip.) or Diploma in Art Education (Dip. A.Ed.). As noted by us earlier, the petitioner had the qualification of Art's Master and consequently would be entitled to be placed in the revised pay scale of Rs.365-760 with effect from 1st December, 1977 considering clause 9 of the G.R. If the Government has issued any order for the period prior to the 1st December, 1977 then the petitioner would be entitled to be paid in that scale with effect from 10th July, 1977.

5. Considering the above Rule made absolute in terms of prayer clause (b). The petitioner will be paid in the pay scale from 1st December, 1977 in terms of Government Resolution dated 29th April 1978 and if there be any other order for making payment previous to 1st December, 1977 then from 1st July, 1977. The respondent no.3 to forward the papers to the respondent no.5 within eight weeks from today and on submitting the papers the Respondent nos. 5 to 8 to release the grant at any rate not later than 16 weeks thereafter. Considering that the petitioner is entitled for the new pay scale from 1st July 1977 though the

arrears are payable from 1st December, 1977 in terms of G.R. placed before us, he will also be entitled to all consequential reliefs including the time bound scale after completing 12 years, if the petitioner meets all the other requirements.

. Consequently, the petitioner would also be entitled to further reliefs in the pay scale as also time bound on completion of 12 years if the petitioner otherwise meets with the requirements for the time bound pay scale.

. This decision shall be taken by the respondent no.5 within eight weeks from today.

6. In the circumstances, there shall be no order as to costs.

Sd/- Sd/-

[R.V. MORE, J.] **[F. I. REBELLO, J.]**